THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ACCU-SPEC ELECTRONIC SERVICES, INC. Plaintiff,	:	C.A. NO.: 03-394 E
v.	:	
CENTRAL TRANSPORT INTERNATIONAL, INC. and LOGISTICS PLUS, INC. Defendants.	:	

CONCISE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF CENTRAL TRANSPORT INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT

Defendant Central Transport International, Inc. ("Central Transport") sets forth the following material facts as to which there is no genuine issue for trial:

1. In January of 2003, plaintiff Accu-Spec Electronic Services, Inc. ("Accu-Spec") engaged Logistics Plus, Inc. ("Logistics Plus") to transport a crate containing an X-ray machine from Dage Precision Industries ("Dage") of Fremont, California to Accu-Spec's facility in McKean, Pennsylvania. Complaint ¶ 6, App. Exhibit A.

2. Logistics Plus, acting as a freight forwarder, issued a rate to Accu-Spec for transportation of the freight from origin to destination. Logistics' Plus Answer ¶¶ 29, 38, App. Exhibit B.

3. Logistics Plus issued its own bill of lading which set forth the terms governing the shipment from origin in Fremont, California to its destination in McKean, Pennsylvania. Logistics Plus Bill of Lading, App. Exhibit C; Deposition of Chris Fanzini ("Fanzini Dep.") 7:15-8:1, 18:19-19:11, 19:14-20, App. Exhibit D.

EXHIBIT
B

4. Logistics Plus subsequently entered into a separate agreement with Central Transport in which Logistics Plus engaged Central Transport to physically pick up and deliver the freight. Fanzini Dep. 19:9-13, App. Exhibit D.

5. Pursuant to Logistics Plus' instructions and pursuant to the terms and conditions of the Uniform Domestic Straight Bill of Lading issued by Logistics Plus, Central Transport picked up the freight from Dage on February 5, 2003. Complaint ¶8, App. Exhibit A.

6. The freight was delivered to Accu-Spec's facility on February 14, 2003. Complaint ¶9, App. Exhibit A.

7. Central Transport had absolutely no contact with Accu-Spec whatsoever in arranging for the transportation of the freight. George Horetsky Affidavit ("Horetsky Aff.") ¶6, App. Exhibit E.

8. All communications with Accu-Spec for transportation of the freight were with representatives of Logistics Plus. Complaint ¶6, App. Exhibit A.

9. Central Transport's communications regarding pick up and delivery of the freight were solely with Logistics Plus. Complaint ¶6, App. Exhibit A; Horetsky Aff. ¶7, App. Exhibit E.

10. Subsequent to delivery of the crate containing the X-ray machine, Accu-Spec notified Logistics Plus of damage to the freight. Complaint ¶16, App. Exhibit A.

11. Logistics Plus is a logistics company which offers a full range of logistics services. Logistics Plus Web Site, App. Exhibit F, Horetsky Aff. ¶8, App. Exhibit E.

12. Some of the services offered by Logistics Plus include freight forwarding services. Logistics Plus Web Site, App. Exhibit F, Horetsky Aff. ¶9, App. Exhibit E.

13. Logistics Plus is a licensed international freight forwarder. Logistics Plus Web Site, App. Exhibit F.

14. Logistics Plus also offers services including supplier shipment consolidations. Logistics Plus Web Site, App. Exhibit F.

15. Central Transport is a motor carrier which provides motor vehicle transportation for compensation. Aff. ¶11, App. Exhibit E.

16. Logistics Plus holds itself out to the general public to provide transportation of property from origin to destination for compensation. Fanzini Dep. 7:20-8:1, App. Exhibit D.

17. In the ordinary course of Logistics Plus' business, it assembles and consolidates, or provides for assembly and consolidating of shipments. Logistics Plus Web Site, App. Exhibit F, Horetsky Aff. ¶10, App. Exhibit E. Deposition of James Berlin ("Berlin Dep."), 14:10-13, 58:22-59:13; 60:1-60:15; 61:1-61:15, App. Exhibit G.

18. Logistics Plus assumes responsibility for the transportation from the place of origin to the place of destination, and it issues its own bill of lading. Berlin Dep., 14:10-13, 58:22-59:13; 60:1-60:15; 61:1-61:15, App. Exhibit G, Logistics Plus Web Site, App. Exhibit F.

19. Logistics Plus uses for part of transportation services a carrier which provides transportation services for compensation. Complaint ¶7, App. Exhibit E.

20. The bill of lading issued by Logistics Plus was the only bill of lading issued for transportation of the freight which is the subject of this litigation. Bill of Lading, App. Exhibit C.

Respectfully submitted,

Jeffrey D. Cohen, Esquire
JANSSEN KEENAN & CIARDI P.C.
One Commerce Square
2005 Market Street, Suite 2050
Philadelphia, PA 19103
(215) 665-8888
(215) 665-8887 (fax)

Attorneys for Defendant
Central Transport International, Inc.

Dated: October 13, 2004